(33)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No.974 of 2006

APPELLANT : The Oriental Insurance Co. Ltd. Through Divisional Manager, Oriental Insurance Co. Ltd., Malviya Nagar, Durg (C.G.)

VERSUS

RESPONDENTS

1. Smt. Arti Verma, aged about 26 years, Wd/o Late Shri Yogesh Verma
2. Minor- Shubham Verma aged about 5 years S/o Late Yogesh Sharma
3. Minor- Ku. Swati Verma aged about 1 month D/o Late Yogesh Sharma
   Res. No. 2 & 3 Minor
   Through – guardian, Mother Smt. Arti Verma
   All R/o Village – Chatuwa, Near Nanderi, Charouda, Durg, Distt. Durg (C.G.)
4. Kranti Verma, aged about 30 years S/o Ramsai Verma, R/o Teachers Colony Dangania, Raipur (C.G.)
5. L.K. Verma, aged about 34 years S/o Ram Sai Verma, R/o Teachers Colony Dangania, Raipur (C.G.)

Present: Shri A.K. Athaley, learned counsel for the appellant.

ORAL ORDER
(Passed on 11th August, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

The first contention raised by the learned standing counsel for the appellant –Insurance Company is that the M.A.C.T. ought not to have fastened the liability to pay compensation, because, the policy issued by the Insurance Company does not cover the risk of pillion-rider. It was next contended that the deceased was travelling as a pillion-rider as a gratuitous passenger. These pleas which are factual were not raised in the

written statement filed by the Insurance Company before the M.A.C.T. Obviously, these pleas were not established by adducing substantive legal evidence. In that view of the matter, the factual pleas now raised before the Court in this appeal could not be entertained. No other point was urged. The appeal is devoid of merit and it is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge